

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	
Universal Service	)	
 Petition for Forbearance	 )	
Of Virgin Mobile USA, L.P.	)	DA 07-4983
From Section 214(e)(1)(A) of the	)	
Communications Act of 1934, as amended)	)	
 Petition for Designation as an Eligible	 )	
Telecommunications Carrier in the	)	DA 07-4983
State of Pennsylvania	)	

**THE COMMENTS OF  
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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## **Introduction**

The Pennsylvania Public Utility Commission (PaPUC) appreciates this opportunity to file Comments with the Federal Communications Commission (FCC). These Comments address the FCC's Notice issued on December 13, 2007 at DA 07-4983 (the FCC Notice). The FCC Notice seeks comment on the Petition of Virgin Mobile USA, L.P.'s Petition for Forbearance from the Section 214(e)(1)(A) facilities requirement of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (TA-96). The FCC Notice also seeks comments on the Petition for Designation as an Eligible Telecommunications Carrier (ETC) (collectively, the Petitions) along with the request for a grant of forbearance.

As an initial matter, the PaPUC Comments should not be construed as binding on the PaPUC in any proceeding or the specific views of an individual Commissioner, unless indicated otherwise. The positions taken in these Comments can change in response to later developments, including those at the state and federal level.

## **The PaPUC Comment**

The PaPUC opposes these Forbearance and ETC Petitions. Pennsylvania is a net contributor to the federal USF. The petitions raise complex economic and policy matters that will have an impact far beyond the borders of Pennsylvania.

Narrow petitions are not the best place to reach policy determinations that will have long-term impact.<sup>1</sup> This includes providing support for multiple providers of wireless services in the study areas regardless of concrete evidence that those services will be uniformly available throughout the Commonwealth.

A rushed decision to support Virgin Mobile's petitions because they claim to expand service options to lower-income customers, a policy goal disputed by few, could increase costs to Pennsylvania. That includes Pennsylvania's lower-income customers.

The PaPUC disagrees that a Secretarial Letter in which the PaPUC refrained from exercising jurisdiction over an ETC designation request of NEP Cellcorp Inc. (NEP) is relevant to Virgin Mobile. NEP is a wireless affiliate of a rural Pennsylvania carrier. Virgin Mobile is not. NEP apparently intends to provide services in areas where there are no current wireless services. Virgin Mobile intends to provide wireless services that overlap services already provided by other wireless and wireline carriers. Virgin Mobile fails to explain why, and how, the federal USF should be tasked with supporting competition from a multiplicity of service providers, particularly in rural areas where multiple providers may not make economic or policy sense.

In addition, Virgin Mobile apparently failed to give the PaPUC a copy of their petitions. This underscores the weakness of allowing carriers to file

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<sup>1</sup> *In the Matter of United Power Line Council*, WC Docket No. 06-10, Comment of the PaPUC.

ETC and forbearance petitions with the FCC without providing notice to the impacted state commissions. The FCC is currently considering what, if any, role the state commissions should have in forbearance petitions. Virgin Mobile's forbearance petition is a glaring example of the need for a formal regulatory process for considering the state impact from a forbearance decision.<sup>2</sup> The FCC should reject forbearance petitions until the FCC makes a determination in the pending docket on what, if any, role a state commission should have in forbearance matters.

In addition, the petitions' claim that forbearance and ETC designation promote the interests of USF, particularly on behalf of those lower-income consumers who spend less than \$10 on Virgin Mobile's prepaid wireless services, warrants closer examination. Several considerations support this position.

The federal USF support provided to the High Cost Fund as well as the Lifeline-Linkup programs is supported largely by an assessment limited to wireline carrier revenues generated on a Minute of Use (MOU) basis. Currently, 90% of the astronomical increase in federal USF costs in the last few years is attributable largely to costs incurred in connection with wireless carriers.<sup>3</sup> The PaPUC's opposition to these petitions does not mean that the PaPUC opposes Lifeline/Link-up programs. Those programs warrant support because they promote the ability of lower-income customers to obtain an affordable connection to a network that historically differentiated between local and long-distance calling.

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<sup>2</sup> *In Re: Verizon Petition for Forbearance*, WC Docket No. 06-172, Comment and Reply Comment of the PaPUC.

<sup>3</sup> *In the Matter of Intercarrier Compensation*, FCC Docket 01-91, Comment and Reply Comment of the PaPUC.

The PaPUC is concerned that these petitions expand support for a measured wireless service that apparently does not differentiate between local and long-distance communications. The petitions do not explain how support for a wireline connection focused on local service, and largely supported by an assessment on wireline MOU revenues, should now support limited prepaid services with no eligibility confirmation or follow-up.

These petitions fail to identify exactly what, if any, oversight and eligibility procedures Virgin Mobile will use to monitor their pre-paid services, particularly given that those services will apparently be provided through retail transactions at the retail level. The petitions do not explain how Virgin Mobile ensures initial eligibility or even that any recipient continues to be eligible. The wireline incumbents that currently receive Lifeline/Link Up do that. Virgin Mobile does not explain how they will do that.

The PaPUC thanks the FCC for an opportunity to file a Comment.

Respectfully submitted,  
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